

Honorable Judge McDonough,

I want to begin by introducing myself – my name is Mary. I feel the need to say this because for the last 16 months my name has been clouded and covered with aliases such as, “Jane Doe,” “the victim,” “the employee,” and “the accuser” for my protection. What’s worse is that others referenced me by using words that compromised and downright insulted my dignity, integrity, and competency in order to defend the actions of the Defendant. But I stand before you today, proud to be known as “Mary” – a wife, a daughter, a sister, an Aunt, a niece, a cousin, a friend, a co-worker, a social worker, a fighter, a survivor – and perhaps most importantly, a Christian.

What you may not know about me, is that I was raised in small suburb in Western NY by my mother and father. My twin and I were the youngest of 5 children; I was guarded by not only my parents, but by 3 older brothers and my fierce other half. I had no need to worry about protecting myself because I was surrounded by people who loved me, cared for me deeply, and would go to the ends of the earth to ensure that I was okay.

Growing up, my biggest dream was to work with children and families involved in the child welfare system. I worked hard, studied endlessly, and finally graduated at the top of my class with a master’s degree in social work. I was bright-eyed as I pursued a career path that I hoped would lead me to a position where I could really make a difference. Before long, I found myself employed by Erie County Department of Social Services and truly prided myself on that. I felt like my prior work and life experiences finally paid off – I did it.

I was in love with my job – with the families and children I worked with. I was so intrinsically rewarded by my work that I didn’t care about what my salary was or the length of the hours I needed to invest. I felt so incredibly lucky to be one of those people who enjoyed going to work each and every day – my heart was so full.

Before long, I was promoted twice and in 2016 I was provisionally appointed to my current position. I exploded with gratitude and I couldn’t wait to see what the rest of my career would hold.

So, it should be no surprise that I eagerly – and excitedly – accepted an invitation to a Permanency Summit in Albany, NY in December of 2017. I was honored to have been one of the few invitees chosen. After all, I was the most junior in my position and thought that this would provide me with an opportunity to learn and to meet others who were equally as invested and passionate about this field as I was.

When the conference finally began, I beamed with pride to be there. It was such an incredible feeling.

However, that feeling was short-lived.

Because somewhere between the late hours of December the 5th and the early morning hours of December the 6th, I was victimized and repeatedly raped by the Defendant – the man whose face came to represent Erie County DSS and the work I came to love.

My world crumbled. My personal life crumbled. My work life crumbled. I crumbled.

On December 6th, 2017 I woke up trying to make sense of blood-stained sheets, a body that I didn’t recognize, glimpses of memories, and physical and emotional pain that made my bones quiver.

I prayed that this was a bad dream – that I would surely wake up and be able to escape this nightmare – and that the fear that consumed me would subside.

But it wasn’t.

And the fear didn’t.

This was real.

I wasn’t sure how to tell anyone what happened. But I eventually did – I had to. And not just to people that I knew and loved – but to complete strangers – medical staff and members of law enforcement – hours away from my home and everything that I knew.

How do you even describe what that feels like? There aren't words for that.

On February 25th, 2019 the trial that came to be known as The People vs. Albert Dirschberger began and the details surrounding the night that I was raped were revealed to a court room of people – many of whom I had never met before.

The Defendant and his legal team attempted to paint a picture that would make the world think that I asked for this – that I liked it – because somewhere, in his twisted sense of reality, that is what he had to tell himself.

I want to be clear here: NO ONE ASKS TO BE RAPED. NO ONE LIKES BEING RAPED.

I had to defend myself and my integrity for hours on the witness stand. I had to see my parents listen to the gruesome details of how their daughter was raped. I had to sit before the Defendant for the first time since the night he raped me and recount – in detail – each moment that I remembered.

I was accused of fabricating this crime and doing so for monetary benefit. I want to tell you today – that the only reason I hired attorneys was to help me navigate the minefield of a life that I was left with after this crime was committed against me. I had media reporters coming to my home and the homes of my relatives; media sources were calling my coworkers, friends, and family. News stories were being released about my life – as I hid in a house that wasn't mine and in a state where I couldn't return to work. I needed help, so approximately 1 month later, I hired attorneys to help me. It wasn't a ploy for money, it was done out of desperation as my life became a spectacle for the public and I struggled to make sense of how to proceed.

The defense team wanted you and the world to believe that I created this elaborate scheme and did everything that they could to try and create some level of doubt amongst the jurors. They even went as low as calling my husband as a witness just so that he could not be present in the court room to show his support – and then once my testimony was over, they exited the court room and laughingly told him that they no longer needed him with a smile.

This process entailed repeated re-victimization – and vicious strategies by the defense team in an attempt to break me and minimize the crime the Defendant committed.

But these attempts proved unsuccessful. On March 1st, 2019 a panel of 12 jurors delivered guilty verdicts on 2 Felony counts of sexual assault. After nearly 15 months, justice was finally served. My family and I cried tears of relief and joy.

But the sad truth is:

You never win a rape case.

Much of my life was captured within those 5 days; however – so much was also left out.

You were able to hear me testify about the events that happened on December 5th and 6th of 2017 – but this crime went much further than that.

Within the last 16 months, I've had to live and re-live those events over and over. I've struggled with guilt, shame, depression, anxiety, flash backs, panic attacks, suicidal ideation, and a weight that I'm not sure will ever go away.

I've had to live with details of my life exploited within various news and media sources – many that twisted the facts in an attempt to discredit me and fuel the Defendant's fraudulent campaign of innocence.

And through it all I've had to hear the Defendant and his legal team, time and time again, remind me that an apology would never be rendered. The more I heard that, the more I began to understand it.

He wasn't the one that had to experience what I did.

He wasn't there when I had to identify my own blood on my bedsheets.

He wasn't there when I looked in the mirror and saw a body I didn't recognize.

He wasn't the one who had to experience the pain of having abrasions and lacerations to my vagina – the aftermath of sexual trauma.

He wasn't the one who had to think of how to tell my loved ones that I was raped.

He wasn't the one who had to convince Jill to take me to the train station as she plead with me to seek help because I wanted so badly to run away from it all.

He wasn't the one who had to hear my husband's voice crack on the other side of the phone as he uttered the words, "No..." when I told him what happened.

He wasn't the one who had to pick up the phone to my sister and brothers crying, because they weren't there to protect me.

He wasn't the one who had to tell a taxi driver to take me to the hospital.

He didn't have to hobble into the hospital and tell a complete stranger at a reception desk that I was raped and needed help, as I sobbed.

He wasn't the one who was ushered into a hospital room alone, hours away from an ounce of familiarity.

He wasn't the one who had to have a speculum inserted into my vagina that had already been cut and was bleeding.

He wasn't there when I had to have photos taken of my vagina in that condition.

He wasn't there when the nurse and hospital staff encouraged me to call the police.

He didn't battle with the fear of what that would mean for me, my career, and my life.

He wasn't there as my family rushed into the hospital to swaddle me as I sat in that hospital room.

He didn't see the tear-stained faces of my mom, dad, sister, and husband as they held me close.

He didn't need to recount, in awful detail, what had been done to my body.

He wasn't the one who was afraid to return home because I lived in the same town as he did.

He wasn't there when my husband held me each night as I cried myself into a state that most resembled sleep.

He wasn't there when my husband walked me to the bathroom in the dark because I was terrified to be alone.

He wasn't the one who had to hold my hair back as I vomited and became ill because of my nerves as I prepared to face him at trial.

He wasn't the one who had to sit before a jury – for two days – and be ridiculed, mocked, and degraded by a high-priced attorney.

He wasn't the one who had pictures of my vagina shown to complete strangers.

He wasn't and he didn't – because if he was and he did, he would realize that an apology would have been the least that he could have provided.

But an apology wouldn't make any of this go away.

It never will.

On December the 6th of 2017 when the police initially questioned me about the Defendant, I couldn't even tell them his eye color. I couldn't tell the police the eye color of someone who had been inside of me.

You want to know how I came to find out those details about the Defendant? On TV, as I watched the news stories break with the rest of the world – hiding in a house that belonged to my now-husband because I was too fearful to return to my apartment.

In the days that followed I barricaded myself in that house. I didn't want to leave. The world was unsafe. My experiences now told me that.

Showering, changing my clothes, doing my hair, putting on makeup, and leaving the house were huge victories – and ones that didn't come often.

I couldn't eat. I couldn't sleep. I couldn't operate.

I had to take a precautionary HIV medication that made me feel like I was knocked upside the head with a sledge hammer.

I lost 20lbs as a result of the stress I experienced.

In search for help, I tried to locate a counselor who had experience in treating those who suffered sexual trauma.

I found lists full of names....names that were accompanied by waitlists that lasted months.

I was frustrated, heartbroken, and yearned for the help that I needed to make sense of all of this.

My heart hurt in ways that I couldn't put into words.

One day, I received a return phone call from one of these counselors. As she uttered the same words I came to hear from countless others about her waitlist, my voice cracked as I broke into tears. Over the phone I plead with a stranger to please make room for me. She must have heard the desperation in my voice and to my surprise, she agreed to fit me in.

Since that day, I have worked endlessly with my counselor to fight feelings of depression and anxiety, desires for isolation – and to make sense of what happened and to find ways to look forward.

I've been diagnosed with PTSD, and have come to know a life riddled with those symptoms. I have found comfort in the reality that I was a victim – moreover, I am a survivor. For months I blamed myself for being intoxicated. For accepting drink after drink from the Defendant. For not listening to my gut as I told Debbie that I feared that the Defendant would be by my hotel room and for being soothed by her words that I shouldn't worry. For not being able to remember everything that night. For not fighting harder. For not yelling. For not running.

But what I did wasn't illegal – and what the Defendant did was.

What I have learned is that my responses were typical of a person who went through what I experienced. Fight, flight, and freeze are natural responses when we encounter trauma – and so is disassociation.

Although I will never know whether I blacked out, passed out, or was unconscious that night – what I do know is that I was raped. And that I fought to the best of my ability when I could.

Within the months that followed this realization, I fought to get back to work– to the place where my heart once was. And in May of 2018, I finally returned. As much as I was happy to be back, what I found was a much different space. People welcomed me back – and others didn't. Some chose to doubt my credibility, spread rumors, and attack my character.

While most people didn't know what to say or how to respond to me, I felt a sense of pride to be back doing what my heart loved.

But it was different.

How couldn't it be?

The Defense team argued that the Defendant wasn't really my boss – they were right: he was much more than that. He was the Commissioner. He didn't only control my job, he controlled every aspect of it. Because of this, my return to work was increasingly difficult.

I was harassed by a colleague, who told me that I didn't look like a rape victim, that no one believed me, and that I had to watch my back because people were following me.

I was told by another colleague that my coworkers were afraid to ride the elevator with me.

Others avoided me, stared, and began malicious rumors that I was unable to defend myself against.

What's more is that I had to sit in a hearing with an Erie County attorney and recount everything that happened to me between December 5th and 6th of 2017. I had to sit there as she pulled out papers and photos she obtained from the Defendant and his legal team. For the first time, at the hands of an Erie County attorney – my employer's attorney – I saw pictures of things that happened to me that night and transcripts of items I needed to complete with members of the Albany County law enforcement in the hours that followed.

To make that even more excruciating – Erie County's attorney handed me a transcript, typed by the defendant's legal team, of the controlled phone call I completed with law enforcement officers of Albany County. Within it, the Defendant's attorneys documented their belief that I was liar. My employer's attorney handed me a transcript that had those words clearly typed out in the margins by the Defendant's legal team: That I was a liar. And she handed it to me.

You want to talk about feeling alone? Unbelieved? Degraded? Re-victimized?

To top it off, this same attorney was present each day of the trial and uttered not one word to me. Not a "hello," not a smile, not a word. But she sat silently and listened to each person take the stand and describe – in terrible detail – what happened to me. She sat and listened to the most private details of my life, she heard about how my body was brutalized – and not one word. NOTHING.

For months I fought to come back to a job that I loved. A job that I thought would renew my sense of purpose and life.

And this is what I arrived to...and was forced to live with.

What the Defendant and his legal team didn't want you to know about was that the Defendant – in the months prior to my rape – had visited my office, disclosed private work matters, and made me uncomfortable. So uncomfortable that I disclosed this to my upper management, who then relayed it to the First- Deputy Commissioner. When our County Executive found out that I was raped, the First-Deputy Commissioner wrote an incident report and documented my prior complaint as well. However, that piece of information was never disclosed.

I told people that I was uncomfortable around the Defendant 6 months prior.

Six months.

Six months of him grooming me, reminding me of his power and ability to demolish the careers of those around me---but not one word could be mentioned about that.

The Defense team also wanted the court to believe that those who testified on my behalf did so simply because they were my friends.

I want to tell you that many of these people did not begin as my friends – but through this awful journey – we shared an experience, a traumatic experience, that formed a bond.

When the Albany County law enforcement reached out to my colleagues, I chose not to speak to them first. Why? Because I knew that this investigation was scary. They had careers, families, and themselves to protect. To my surprise, nearly all of them chose to be honest about what they had seen and experienced.

I was overcome with a sense of gratitude toward the people who stood beside the truth and didn't run from it.

But somewhere between those events and now, my life turned into a commentary for others. I found out who stood with me and who didn't. Who would be truthful, and who wouldn't.

Co-workers that I thought were my friends abandoned me because they feared for themselves. People recanted events because they feared for their careers.

These are the battles I've faced every day since December 5th and 6th of 2017.

The slogan that the Defendant and his legal team so often came to use was this: "Regret doesn't equal rape." That may be the only thing that they got right – regret doesn't equal rape... RAPE EQUALS RAPE. And rape doesn't take place in a vacuum. Rape impacted every inch of who I was. Every inch of my life. Every person who knew me. Every person who loved me.

Every single day.

My life was torn open from the seams for others – strangers – to read about. But it wasn't just that. Articles and statements were released that didn't include all of the details – or worse, chose not to include all of the details – of what happened to me. Those events gave others the ability to weigh in on my experience, to judge me, to form an opinion based on details that weren't grounded on reality or truth.

There were days – so many days – that I was afraid to go outside – or return home when I did – because I thought surely someone would be there to hurt me, to kill me – to finish the job that the Defendant had started. And all that I was equipped with was an order of protection – a piece of paper.

But that sad truth is, in time I came to realize that someone killing me wasn't nearly half as scary as what I had to wake up to and go to sleep with each day.

The pain and misery of having my life subjected to public opinion was heart wrenching. I often found myself praying for my life to end to escape it.

I felt the need to be on alert at every moment – every action I did, came with fear attached.

Every aspect of my life.

I jumped at shadows and sounds – my heart raced and my head filled with panic at triggers that surfaced.

I was a prisoner in my own home. In my own body.

This wasn't WHO I wanted to be. This wasn't WHERE I wanted to be.

Rape robbed me of everything I knew and everything that I was.

But what I came to realize was that this was all part of the aftermath. My life became the aftermath of the Defendant's actions. My family and I struggled to pick up the pieces and put them together in an effort to recreate some semblance of the life that I had before.

But it was different.

It had to be.

I can still remember sitting with my husband, and watching a video of myself that he had taken the day before I left for Albany on December 5th, 2017. It showed me goofily dancing, joking around, jovial – happy. I can still remember him saying that he wondered whether or not I would ever go back to being "that Mary," – and in my heart, as much as that hurt – I wondered it, too.

I stand before you today, though, proud to be "this Mary." The journey to get me here has been a long one – one that I am still traveling and learning to navigate. One that I wouldn't be able to travel without those around me who have loved and supported me from the beginning – and because of my God, who is so much greater than all of this.

I want to thank Melissa Ives, the SANE nurse who sat with me for hours. She completed my examination and spoke to me as though she had known me for years. She delivered a sense of comfort during a time of heartbreak. She reminded me of my strength when I thought that I had none.

I thank Sergeant Flanders and Lieutenant Fargione who investigated this crime. They treated me with kindness and respect – and perhaps more importantly, they believed in me.

I thank Jennifer McCanney, Ariel Fallon, and Amanda Kyle-Sprague---all members of the District Attorney's office---who represented my case, advocated for me, and fought ferociously for justice.

I thank the jury – who allowed justice to be served.

I thank my counselor – a woman who made room for me when no one else would. A woman who spent endless days comforting me as I wept in that counseling room. A woman whose professionalism and knowledge equipped me with the tools and insight necessary to assist me in regaining my strength. A woman that I wish was able to walk with every survivor on their road to recovery.

I thank my friends and family – the people who stood beside me. My army. Your love and support have been life changing.

I want to specifically thank my mom, dad, brothers, and sister who called, visited, and checked in daily, to ensure that I was okay. Who worried about my health and well-being more than they ever let on. Who loved me through the heartache and reassured me that brighter days were ahead.

I also want to thank my husband, the man who convinced me to go to the police and stood beside me in the days and months that followed. The man who held me through nights that seemed endless and days that seemed too difficult to bear. The man who has served as my protector and my best friend. The man who loved me through so many unlovable moments that this journey brought us through.

My heart has been moved by all of you – the people who gave my voice meaning. The people who stood with me in the dark. The people who never doubted me.

I love you.

In closing, Your Honor, I ask that you take all of the things I've stated into consideration as you determine the Defendant's sentence; and I pray that you show him as much mercy as he and his legal team showed to me throughout this process.

I also want to say that within the last 16 months, I've learned that life is full of twists and turns that are unexpected---that bad things happen but through faith, you can overcome them.

I want to end this statement with a verse that has spoken to my heart in the midst of all of this...

Genesis 50:20: "You intended to harm me, but God intended it all for good."

Thank you.

Respectfully,

Mary